

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

United States District Court
Southern District of Texas
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Brownville DIVISION

MAR 11 2019

David J. Bradley, Clerk of Court

Rogelio Roel Bustamante 1048431, Daniel, Torres # 263015
Plaintiff's Name and ID Number

7100 Old Alice Rd. Olmito Texas, 78575
Place of Confinement

B-19-036

CASE NO.

(Clerk will assign the number)

v. Dmar, Lucio, Sheriff
954 E. Harrison, Brownsville, TX, 78520
Defendant's Name and Address Individual and official Capacity
Sgt. A. Delgado, Jailer
954 E. Harrison Brownsville, TX, 78520
Defendant's Name and Address Individual and official Capacity
Sgt. J. Ybarra, Jailer
7100 Old Alice Rd Olmito, TX, 78575
Defendant's Name and Address Individual and official Capacity
(DO NOT USE "ET AL.") (See Attachment I) Defendants)

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: 2009

2. Parties to previous lawsuit:

Plaintiff(s) Rogelio Roel Bustinza

Defendant(s) Orlando Perez "ET AL"

3. Court: (If federal, name the district; if state, name the county.) Cameron County

4. Cause number: 13-09-231

5. Name of judge to whom case was assigned: don't remember

6. Disposition: (Was the case dismissed, appealed, still pending?) settled out of Court

7. Approximate date of disposition: don't remember

II. PLACE OF PRESENT CONFINEMENT: 700 Old Alice Rd. Olmito Rd. 78575

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Rogelio Ruel Bustinza #098431 -
Daniel Torres #263015
7100 Old Alice Rd. Olmito Texas 78575

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Omar Lucio, Cameron County Sheriff

~~Violated civil rights, Denial of Proper Medical treatment, Meida carries Stereotype, Library rules, freedom of Public into, discriminating, Tampering with mail, Freedom of Religion, Clothing, bedding, Freedom of Speech in Human Constrictions, due Process, Profit before Safety, Directly and Indirectly~~
Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Address: 954 E. Harrison st. Brownsville Texas 78520

Defendant #2: Sgt. A Delgado Jailer

954. E. Harrison st. Brownsville Texas 78520

~~Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.~~

~~For Complaint was, Assisted, threatened, harassed, retaliated against, He took my bedding, clothing, mail tampering Denying Religious Belief, Directly and indirectly~~

Defendant #3: Sgt. E. Ybarra Jailer

954 E. Harrison St. Brownsville, Texas, 78520

~~Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.~~

~~Aussited, Threatened, Retaliation, Harassment for Complaining denying freedom of speech, Religion Directly and indirectly Violated Civil Rights~~

Defendant #4: Cpl. D. Castillo Jailer

954. E. Harrison st. Brownsville Texas 78520

~~Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.~~

~~Threatened, Assisted, Harassed, Directly and indirectly for Complaining Violated Civil Rights~~

Defendant #5: L.D. Rodriguez Jailer

954 E. Harrison st Brownsville Texas 78520.

~~Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.~~

~~Pushed Plaintiff (Rogelio), Retaliation, Harassed, Assisted Directly and Indirectly. Violated my Civil Rights see section IV Parties to this Suit.~~

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

claim I Took Place in Cameron County 954 E. Harrison Bro. TX 78520
 Pod 3 DL On 3/14/18 Inmate Daniel Torres #263015 had a seizure called out for
 Medic C.O. Salazar told us to drag him out we refused Sgt. (Name unkno)
 came with other Guards to drag him out. We Complained that he shouldn't be here
 because it's not a hospital tank. We filed a Grievance 3/15/18 that same day Sgt.
 (Name not know) come in around 2:45pm He wanted to know who filed the Grievance
 and who was the trouble maker and that he had beaten Inmates before and if we Inmates
 didn't take care of the trouble maker he would. Rogelio Roel Bustina Got assulted by Inmates
 that day because of Sgt.(s) statements He threatened us to cut the phones off and turn
 the T.V. off and cut visits. All because we Complained And from that point on I've
 been assulted, harassed, threatened, Intimidating, substaived Bodily injury cont.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

900.000/xx Compensatory Damages - 1,000.000/xx Punitive Damages
 900.000/xx Physical, Mental and Physical anguish 1,000.000/xx
 Cont. on Pg. II section III Relief!

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

Rogelio Roel Bustina - Daniel Torres

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

Rogelio Roel Bustina #825593, 1498770 - Daniel Torres 263015

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 3rd day of March, 20 19.
(Day) (month) (year)

Roel Bustamante, Daniel Torres
RBT, Daniel Torres
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

Attachment, Defendant(s)

C.O. Noe Santibanez Jailer, Individual and official capacity
7100 Old Alice Rd. Olmito Tx, 78575
Defendant's name and address

R.N. Julie Pena, nurse Individual and official capacity
7100 Old Alice Rd. Olmito Tx, 78575
Defendant's name and address

I Previous Lawsuits

B.

1.) Approximate date of filing: May 31, 2018

2.) Parties to previous lawsuit:

Plaintiff(s): Rogelio Roel BustINZA

Defendant(s): Omar, Lucio Sheriff "et al"

3.) Court: Southern District of Texas Brownsville Division

4.) Cause number: B-18-084

5.) Name of Judge to whom case was assigned: don't remember

6.) Disposition: Dismissed for lack of funds

7.) Approximate date of disposition: don't remember

section IV Parties to this Suit.

Defendant #6 CPI G. Santos, Jailer

Address: 954 E Harrison st Brownsville Texas 78520

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you: Retaliation, Harassment, Denying freedom of religious Beliefs, Freedom of speech, Assisted directly and indirectly for Complainant, Tampering with mail, and violated ~~our~~ ^{our B.B.} civil rights

Defendant #7 Medical Director - Dean Garza

Address: 7100 Old Alice Rd. Olmito Texas 78575

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you: Denial of Proper medical Treatment, failure to accommodate individuals with a disability Under the Americans with Disabilities Act. Causing undue Physical Pain and suffering by denying Pain Meds, Bodily injury, directly and indirectly. Violating ~~our~~ ^{our B.B.} civil rights, Profit before Safety

Defendant #8 Sgt. Ayala Jailer

Address: 7100 Old Alice Rd. Olmito Texas 78575

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you: He threatened, Harassed, Assaulted, Bodily injury, directly and indirectly, violated ~~our~~ ^{our B.B.} civil rights

section # IV Parties to this Suit.

Defendant # 9 C.O. Juan Moya

Address: 7100 Old Alice Rd. Olmito Texas 78575

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you: Threaten, Asselteed, Harassed, causing Bodily injury, Violated my civil rights

Defendant # 10 Jailer Noe Santibanez

Address: 7100 Old Alice Rd. Olmito Texas, 78575

Briefly describe the act(s) or omission(s) of this defendant which you claim harmed you: failed to report a crime.

Violating my Civil Rights, to Protect and Serve.

Defendant # 11 Nurse Julie Pena

Address: 7100 Old Alice Rd. Olmito Texas, 78575

Briefly describe the act(s) or omission(s) of this defendant which you claim harmed you: failed to report a crime

Violating my Civil Rights to protect and serve.

VI Relief

Due process go back on my D.U.I. case to challenge my case in the beginning, and or dismiss it for tampering with my information on my DUI case, meaningful access to Law Library by way of computer or pair/legal. Ladders for top bunks and boxes for storage for personal property, full meals and hot. Honor my religious beliefs, fix toilets, showers, release public information: and provide socks, underwears and disinfective for clippers, return all legal papers personal mail. Over haul Grievance system to be independent from Guards. Over haul medical system and provide pain meds, not just over the counter medications. Stop covering up assaults from inmates and guards. Proper training for guards and medical staff. Stop restrain inmates who have seizure's. And stop tampering with mail and media corresponde's and have mail delivered on time and provide Bug spray for nats and fly's. And prosecute any criminal act to the fullest extent of the Law.

Section II - Continuation of Claim I Rogelio Roel BustINZA's claims I
Denying our freedom of speech to complain without retaliation
harassment.

Claim II - Told Cpl. G. Santos and send two request form that I
don't eat meat during Lent, 3/21/18 on Friday's they refused to
honor that all through Lent, I filed a Grievance they never responded
back after that I started getting smaller portions of my meals and
rotten food, I complained about that and the Jugs having mold, they never
responded back (Vi Grievance) denying my freedom of religion.

Claim III - 3/22/2018 Obstruction of mail tampering, Freedom of
media correspondence. Grievance filed on or about 3/22/2018 for not
getting my mail or newspaper. My mother sended certified mail on 4/20/18
with vitale information for parole, my D.U.I. case didn't get it till
5/18/18 after several complaints and when I was given my mail I was
shaken down by Cpl G. Santos and the whole pod too. Insiting a fight
among inmate's I got assaulted that day also because of Cpl G. Santos.
They with helded back my kids mail that they had send me, and my
mail would never get home properly. Also inmate James Ernest
Hawkins #.s.o. 274033 has filed ~~numerous~~ newmure's Grievance's and
they would with held his mail back in retaliation legal mail. Put in mail
on March 2, 2018 and got it on 4-4-2018 in the pod around
1:40pm as Cameris will show. And opening my legal mail on too
occasions. 3/28/18 C.O. TORRES told Cpl. Santos about my
opened mail, TORRES said he wrote it down in the activity log

Claim V - Being denied meaningful access to law Library due process and access to courts. There is no Law Library.

Claim VI - Denial of proper medical attention or treatment. When was booked in and in custody of D.P.S. Got hurt injured to hand and shoulder and to date hand still goes num, as a inspector will not be able to work and will need new line of Job. Right hand took 5 to 6 weeks to see Doctor and still in Pain. Also got hurt getting off bunk as they have no ladders to get on or off hurt right foot. And knee on or about 3/6/2018 tried to run in the box only made it worse as we only have saddle's, no shoe's.

Claim VII - Discriminating, because of medical condition, Plaintiff has chronic heartburn was punished, was told by medical staff that of plaintiff would take pills (that plaintiff provided) I would be on Commissary restriction, while food served gives Plaintiff Heart burn too. Coffee on morning or milk, noon, Kool-Aid, no water till dinner. Sink water tastes nasty and smells like sewer water, mold on vents.

Claim VIII - Freedom of Public information requested contract to commissary and medical never got a response as price's are high and have no other means of getting hygiene or anything else but threw commissary.

Claim IX - cruel and unusual punishment, No boxers or briefs socks, T-shirts, pillows and very cold in pods or cells. Unsanitary conditions, toilets leak, sewer water smells, floors wet all the time. No disinfective for hair clippers or nail cutters, or glove's to clean toilets or disinfective only mop bucket water to disinfect. Sgt. Delgado took my bedding, Blanket, Sheets and only had my shirt. shirt was very cold had to beg laundry C.O. to give them back.

Claim VIII

On 4-26-2018 coming from court I was put in a holding cell around 4:00 pm, I complained to Sgt. A. Delgado about my Chest pain & that I needed my medication & that we hadn't eaten. (Francisco Fuentes # 274356) heard him say that he didn't give a fuck, and to go sit down, plaintiff asked for his name & Sgt got mad and told Plaintiff that he knows all the blind spots for the cameras, and he could beat plaintiff up and that he could make plaintiff die slowly and painfully if I didn't shut the "fuck up". Plaintiff turned around to go sit and sgt kept talking, didn't hear the rest, C. O. L. Calderon was present. Later on C.O. Calderon came to escort Plaintiff to medical and on the way Sgt. A. Delgado followed Plaintiff, felt Sgt was going to assault plaintiff before that sgt. came with nurse to give med's to plaintiff and took pills. Sgt got mad because plaintiff gave cups to him and kept saying if I had a problem, Sgt got visually mad. When coming from medical Sgt A. Delgado pulled plaintiff to the side to harrassing, threatening plaintiff told me he was a veteran and if I would keep complaining he would get rid of plaintiff. Was taken to pod 3DL and cpl. castillo was there telling inmates we needed to take care of the problems or people causing problems that he didn't give a "fuck" we could kill each other that he cpl castillo had been though shit and didn't care, plaintiff felt dererctly threatened, continue page IV

Claim X

On 5/3/18 C.O. Rodriguez, around 10:00 am or so pushes plaintiff to hurry up to go to medical, came back and left Plaintiff in pod 3DL. Came back with several guards to shake down pod for the 3rd or 4th time in a row before the Sgt. A. Delegado had already came the day before to do shake down just to harass Plaintiff took bedding, legal paper work, letters and personal items was done several times to Plaintiff because I exercise my right to complaint without harassment, retaliation or threatened and covering up assaults. all actions were done under the color of law / sgt. A. Delegado and Cpl. Castillo have Conspired to cover up assaults and have Violated my Civil Right knowingly and willfully -

Claim I Rogelio Roel Bustamante and Daniel Tovres claim I
Profit before Safety I've been incarcerated in Carrizale's County Jail ever since
12-8-2017, Dean Garza is responsible for disregarding my safety, Disabilities, medical Condictions & treatment, As a result I've been assualted by inmate's & Guards. I've been moved all around Carrizale's from different Dorm to Dorm & they also moved me to the old county Jail on 3-10-2018, being in 3DL I had severral seizures, I also had severral black outs after getting sick in 3DL & was taken to the hospital and brought back to the same cell. The inmate's in 3DL filed a Grievence because 3DL didn't have Disabilite accomodations & my life was in Danger, then I was placed in Dorm 3BR & that tank didn't have accomodation for Disable people too. Due to the fact I was threaten by another inmate in 3BR, because of my Disabilities, what disciplinary did he just decided to put me in segeration single cell & disregarded my Disabilities. As a result I had two seizures in segeration & when I woke up I was downstairs laying down in a stretcher hurt & in pain cause of the way the guards had restrained me when I was having those two seizures.

Claim II Daniel Tovres's claims II-II

Due to those two incidents I was moved back to Carrizale's Medical unit on 5-11-2018. Inbetween those two incidents I spoke to Dr. Kenia Walker & she was suppose to make a medication change for me since 3-15-2018 in the old county Jail, She nevered made that medication change on me after I had a different incident with another guard that assualted me on 6-19-2018 while I was having a seizure, the incident happen with Guard Juan Moya in Dorm Lima 1, he busted open my lip & scared me very bad, he was also choking me on to the ground while having a seizure, Inmate's told me that they restrained me while I was having a seizure, picking me up in the air all the way to Booking

Claim II

to strap me on to their medical chair. That Guard cause me to have that seizure in Dorm Lima 1, he had me feel trumtize, so scared, feeling very Depress with my Emotion not knowing what could happen to me nexts & fearing for my Life & well being. This Guard Juan Moya caused me extremely physical pain, caused bodily injury, cuts, abrasion, bruise's, disfigurement, mental, obvious disfiguremen

Claim III

Now on 6-13-2018 sergeant Ayala came up to me in booking when I was strap down to their Medical chair & threaten me by telling me that I was very Lucky that I have this medical condition of my Epileptic Seizure's, if not he would of found someway to Discipline me very bad & at that time I was fearing for my life. And what sergeant Ayala wanted to do was press charge's on me for kicking him by accident when I was having a seizure. All these actions have been done under the color of the Law on all claims they've up conspired against our right, cover ^{up} assault, Intimidate us, denied our Religious beliefs and tryed to Osbstructed our complaint.

Claim IV

Now on 6-22-2018 I had another seizure their in transport unit & medical just decided to take me to the hospital, while I was getting treatment there in Valley Regional Medical Center, these two transport officer's were talking among each other of what officer Juan Moya had told them that I was the inmate that he had assaulted very bad in Dorm Lina 1, these two officer's thought that I was completely out due to my seizure's, "but I wasn't cuz I was over hearing everything of what these two officer's were talking about. Officer Name they failed to report the assault" Noe Santibanez

Claim V

Also a female nurse Julie Pena felt very great about Officer Juan Moya Assualting me, I was over hearing this nurse telling the other guards from 2nd shift that I was the inmate that Juan Moya had assaulted me very bad in Dorm Lina 1, this nurse had no business telling other officer's from 2nd shift of the way officer Moya had assaulted me & apparently it was very funny to her cause she was laughing about it so much right in front of my face their in transport unit with the 2nd shift officer's. They've failed to report the assault.

3/6/19

Dear : Clerk

You will find the complaint section 1983 and a T.R.O. enclosed "we do not have a copy machine we tried but no success. The copy's of the Grievance's for Daniel Torres were stop at the mail room and send back to his brother stating they were contraband, he will forward them to the court once we have a case # to prove that we Exhausted all Grievance Procedure's, if you could please send a copy of the complaint back, it would be greatly appreciated or a copy for our records, "two if possible enclosed you will find 2¹/₂ pgs. We only had (1) one I.F.P. and we both signed it thank you for your time in this matter.

P.S. Thank you for your time it
is greatly appreciated
and I am sorry for any inconvenience
you may have to
our party.

To Beby P
Daniel Torres

Kyle Koel Bustina T# 098431 Recd
110 Old Alice Rd.
Olmito TX 78575-5150
Return address

✓
Kris
110
Old
Alice
Rd.
Olmito
TX 78575-5150

United States District Court
Southern District of
Texas United States Courthouse
600 E. Harrison Street 10
Brownsville, Texas 78520-

